



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1998

Ms. Marie Galindo
Assistant City Attorney
The City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR98-2889

Dear Ms. Galindo:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120197.

The City of Midland (the "city") received an open records request for the name of the individual who filed a complaint with the city's animal control shelter regarding the requestor's treatment of his pets. You have submitted to this office for review a document containing the requested information, which you contend is excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with the informer's privilege.

In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of *violations of law to officers charged with enforcement of that law*. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, *by preserving their anonymity*, encourages them to perform that obligation. [Emphasis added.]

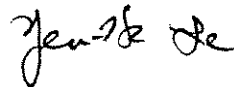
The "informer's privilege" aspect of section 552.101 protects the identity of persons who report violations of the law. When information does not describe conduct that

violates the law, the informer's privilege does not apply. Open Records Decision Nos. 515 (1988), 191 (1978). Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285, 279 (1981); *see also* Open Records Decision No. 208 (1978). This may include enforcement of quasi-criminal civil laws. Open Records Decision Nos. 515 (1988), 391 (1983).

In this instance, the individual whose identity is at issue filed a complaint with the animal shelter alleging that the requestor was not providing his animals with food and water. Such behavior constitutes criminal conduct under section 42.09 of the Penal Code. We therefore conclude that the city may withhold the requested information pursuant to the informer's privilege.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/nc

Ref: ID# 120197

Enclosures: Submitted document

cc: Mr. Buddy J. Fazzio
4801 A. Country Club Dr.
Midland, Texas 79703
(w/o enclosures)